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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,760	12/24/2003	Kentaro Tanaka	247035US6	8929
22850	7590	06/19/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
WHIPKEY, JASON T				
ART UNIT		PAPER NUMBER		
2622				
NOTIFICATION DATE		DELIVERY MODE		
06/19/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/743,760

Applicant(s)

TANAKA, KENTARO

Examiner

Jason T. Whipkey

Art Unit

2622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 May 2008.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4, 8, 10, 14-17, 20, 22 and 26-45 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 2-4, 8, 10, 14-17, 20, 22 and 26-45 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 24 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 30, 2008, has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 2, 4, 17, and 27 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-4, 8, 14-17, 20, 26-28, 30, 31, 33-36, and 38-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suda (U.S. Patent No. 6,388,707) in view of Hashimoto (U.S. Patent No. 6,972,799).

Regarding **claims 2, 4, and 27**, Suda discloses an imaging method comprising:

imaging a subject (OB in Figure 1B) and capturing an image of the subject (using CCD 19);

adjusting a focal length (using AF control microcomputer 29) and focusing on the subject (see column 8, lines 48-52) which is included in a first predetermined region (photometry frame 404 in Figure 4b; see column 12, lines 9-13) within an imaging range (screen frame 401);

receiving a designation (from line-of-sight detection circuit 6) regarding a position in the first region within the imaging range (see column 11, lines 60-63);

setting the first region at a position within the imaging range, whereby a center of the first region is located at a center of the imaging range if the position designation is not received (if the line of sight cannot be determined, the default rangefinding frame 404 is used; see column 12, lines 8-13), and upon receiving the position designation, the center of the first region being located at specified coordinates (402 in Figure 4a; see column 11, lines 58-67) and the range of the first region being set up is smaller than that of a case that the position designation is not received (see column 12, lines 8-13).

Suda is silent with regard to displaying an autofocus frame corresponding to the first region.

As shown in figures 11a and 11b, Hashimoto discloses an auto-focusing apparatus that displays a variably sized focusing frame corresponding to the focusing region (see column 13, lines 42-48).

Combining the imaging method disclosed by Suda with the variable auto-focus frame disclosed by Hashimoto would have yielded the predictable result of the system apprising the operator of the current effective focusing area. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Suda's system vary the size of the focusing frame to correspond to the focusing region.

Claim 3 can be treated like claim 2. Additionally, Suda discloses that microcomputer 29 controls the focusing process (see column 8, lines 48-67). It is inherent that the microcomputer operates using software that is stored in some manner.

Regarding **claims 8, 28, 31, and 36**, Suda discloses:

display means (EVF 24) for displaying the moving image obtained by imaging of the subject by the imaging means (see column 7, lines 36-43).

Regarding **claims 14, 33, and 38**, Suda discloses:

the focusing means adjust the focal length and focus on the subject if the imaging means take in the still image and if the position setting means set up the position of the first region (see column 11, lines 54-67).

Claims 15, 34, and 39 can be treated like claims 14 and 33, respectively. However, Suda is silent with regard to prohibiting the adjustment of the focusing means if the focusing means is focused on the first region and the imaging means takes the still image.

Official Notice is taken that it was well known in the art at the time the invention was made to stop focus adjustment when a still image is being captured. An advantage of doing so is that a sharp image can be captured. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Suda's system prohibit the adjustment of the focusing means if the focusing means is focused on the first region and the imaging means takes the still image.

Regarding **claims 16, 30, 35, and 40**, Suda discloses:

exposure adjustment means (diaphragm 10) for adjusting an exposure for a second predetermined region within the imaging range (the rangefinding frame 402 coincides with the photometry frame; see column 11, lines 58-67),

where the position setting means set up a position of the second region so that a center of the second region is positioned at a center of the first region that is set at an arbitrary position within the imaging range based on the position designation received by the reception means (the rangefinding frame 402 coincides with the photometry frame; see *id.*).

Claim 17 can be treated like the combination of claims 4, 14, and 15.

Regarding **claim 20**, Suda discloses:

display means (EVF 24) for displaying the moving image obtained by imaging of the subject by the imaging means (see column 7, lines 36-43).

Regarding **claim 26**, Suda discloses:

exposure adjustment means (diaphragm 10) for adjusting an exposure for a second predetermined region within the imaging range (the rangefinding frame 402 coincides with the photometry frame; see column 11, lines 58-67),

where the position setting means set up a position of the second region so that a center of the second region is positioned at a center of the first region that is set at an arbitrary position within the imaging range based on the position designation received by the reception means (the rangefinding frame 402 coincides with the photometry frame; see *id.*).

Regarding **claims 41-43 and 45**, Suda discloses:

if the position designation is received, the range of the first region setup is always smaller than that of the case that the position designation is not received (see column 12, lines 8-13).

Regarding **claim 44**, Suda discloses:

if the position designation is received, the range of the first region setup is always smaller than that of the case that the position designation is not received (see column 12, lines 8-13).

5. Claims 10, 22, 29, 32, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suda in view of Hashimoto and Kaite (U.S. Patent No. 4,614,975).

Claims 10, 22, 29, 32, and 37 can be treated like claims 8, 20, 28, and 31, respectively. However, Suda is silent with regard to returning the region designation to its original state.

Kaite discloses a focus area changing circuit, including:

initialization means (preset circuit 60) for initializing the setup of the first region (a designated focus area) and returning the setup from a state where the position designation is received by the reception means to a state where the position designation is not received (see column 7, lines 61-66);

wherein the reception means further receives an instruction (from reset switch 604) to initialize the setup of the first region inputted by the user with a second method (see column 8, lines 10-27), and

the initialization means initialize the setup of the first region based on the instruction received by the reception means (see *id.*).

Using the known designation-resetting technique described by Kaite would improve the device disclosed by Suda in the same way — namely, such an improvement would result in the user not having to move area manually, thus saving time and effort. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have Suda's system offer a means for initializing the location of the selected region.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Whipkey, whose telephone number is (571) 272-7321. The examiner can normally be reached Monday through Friday from 9:30 A.M. to 6 P.M. eastern daylight time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye, can be reached at (571) 272-7372. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason T. Whipkey/
Examiner, Art Unit 2622